

MOSER LAW FIRM, P.C.



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May 5, 2020

VIA ECF

Hon. Denis R. Hurley
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *Ruiggiero v. County of Suffolk*
2:14-cv-007434-ADS-SIL

Dear Judge Hurley:

I represent the Plaintiff in the above captioned matter. I write to apologize to the Court for not promptly responding to the orders directing Plaintiff to file a status report and ask the Court (1) vacate the order dismissing the case for failure to prosecute, and (2) refer the case to Judge Spatt and Magistrate Judge Locke for eventual consolidation with related cases. A copy of this request is being filed via ECF in the matter of *Pflug v. County of Suffolk*, 2:20-cv-00018-ADS-SIL.

Request to Vacate Dismissal

On Tuesday, March 17, 2020 our nanny appeared ill and was sent home. She later tested positive for Covid 19 and has not returned to work. Because of the nanny's absence, the Office Administrator, Josianne Moser, has been unable to work since March 16, 2020. On Wednesday, March 18, 2020 the administrative assistant was also immediately sent home when she re-informed me that she had been exposed to Covid-19 at her part time job for a nursing home, where one of the residents had allegedly died due to the illness. She has not returned to work due to the stay at home order. The last employee of the firm, when learning of the exposure, also immediately left work on March 18, 2020 and has not returned.

My entire family later tested positive for Covid-19 and began experiencing symptoms of the illness at various times. I was sick for several weeks and spent one night at the hospital due to respiratory distress.

Thankfully, all members of the household have recovered. However, since March 17, 2020 the legal practice has been eclipsed by the health concerns of my family, and frustrated by the sudden loss of all employees.

I began working again recently and have been unable to catch up on the work.

Request to Refer the Case to Judge Spatt and Magistrate Judge Locke

This case is one in a series of cases brought by 9-1-1 Call Center employees against the County of Suffolk for *inter alia* violations of the Americans With Disabilities Act. Charges were filed with the EEOC on behalf of three former 9-1-1 Call Center employees - Christy Pflug, Anne DiIorio, and Joseph Montaldo (the "Pflug Plaintiffs") - in 2014. When reconciliation attempts by the EEOC failed, the matters were referred to the United States Attorney's Office. The Plaintiff requested that this case be stayed in the interests of judicial economy until such time as the U.S. Attorney either intervened or issued a right to sue letter.

The U.S. Attorney finally issued right to sue letters to the Pflug Plaintiffs in October 2019. The Pflug Plaintiffs timely filed a complaint on January 2, 2020. *See Pflug, et al. v. County of Suffolk*, 20-cv-0018 (DLI)(CLP), ECF No. 1. The Pflug case was referred to Judge Spatt and Magistrate Judge Locke, who are also presiding over *De La Cruz Castaneda v. County of Suffolk*, 15-cv-0018/15-cv-00185 (ADS)(SIL), the first ADA complainant.

With the permission of the Court, Plaintiff requests that her matter be also referred to Judge Spatt and Magistrate Judge Locke. Consolidation of the cases will avoid duplicative discovery and the need for multiple trials.

Conclusion

In light of the foregoing, I respectfully request that the judgment dismissing the above referenced matter with prejudice for failure to prosecute be vacated, and that this matter be referred to Judge Spatt and Magistrate Judge Locke. I have reached out to counsel for the Defendant. The Defendant takes no position concerning this request and will rely on the sound discretion of the Court.

Respectfully submitted,



Steven J. Moser

CC: Hon. Arthur D. Spatt, USDJ (Via ECF)

Suffolk County Attorney (Via ECF)

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